

REMARKS

Claims 1 and 45-70 are pending. Entry of the amendment is respectfully requested. No new matter has been added. Reconsideration is respectfully requested.

Claim Status

Claims 1, 45-46, 50-52, 56, 60-65, and 67-70 were rejected under 35 U.S.C. § 103(a) as obvious over Zerman (US 2002/71244) in view of Oda (JP 11-15972).

Claims 47-48 and 57-58 were rejected under 35 U.S.C. § 103(a) as obvious over Zerman in view of Oda and further in view of Coutts (US 5,563,393).

Claims 53-55 were rejected under 35 U.S.C. § 103(a) as obvious over Zerman in view of Oda and further in view of Heath (US 5,451,757).

Claims 49, 59, and 66 were indicated allowable if written in an independent form. Indication of the allowable subject matter is appreciated. These claims were placed in an independent form as requested. Thus, Applicant respectfully submits that claims 49, 59, and 66 are now allowable.

The Rejections

Claim 1

The Action (page 2, last line) admits that Zerman is silent about the recited security system. Access to the interior of Zerman's ATM (10) and the rear keypad (38) appears to be via a conventional key lock (41) on a door (40) (numbered paragraph 0027). After the door (40) has already been opened (and the interior accessed) then a password can be used to enable the ATM owner to reprogram the ATM (numbered paragraph 0034). That is, the use of a password in Zerman is not related to opening the door (40). Where does Zerman teach or suggest a security system that can "restrict access to the *interior*," especially where the security system includes the recited database, camera, image recognition software, and processor? Zerman also conventionally distinguishes a cardholder (customer) using a PIN (numbered paragraph 0036) from an ATM owner using a password (numbered paragraph 0034).

Oda cannot alleviate the deficiencies of Zerman as it does not teach or suggest the recited features which are not found in Zerman. Oda was previously distinguished from the recited security system on numerous grounds. Applicants' previous remarks (dated November 8, 2004) are herein incorporated by reference. Additionally, usage (like in Zerman) of a PIN in Oda (e.g., numbered paragraphs 0002 and 0031) further indicates that Oda's teaching is directed to a *customer* (instead of an ATM owner). Oda (like Zerman) does not discuss a database directed to "individuals authorized access to the *interior*." The Action is devoid of any teaching, suggestion, or motivation for applying Oda's teaching for a *customer* to Zerman's ATM *owner*. Furthermore, where does Oda permit a customer (or an ATM owner) to gain entry to the interior of an ATM? Oda does not teach or suggest granting access to an ATM's interior. It follows that even if it

were somehow possible (which it is not) for the references to be combined as alleged, the combination still would not have resulted in the claimed invention.

The Action is silent as to how Zerman's ATM could be modified to have produced the recited invention. It would not have been obvious to have structurally modified (or added thereto) Zerman's suspended *miniature* ATM as alleged. Furthermore, the rear portion (18) of Zerman's ATM, by being located behind a wall (12), already provides the desired security to the owner. The attempts to combine the alleged teachings are clearly attempts at hindsight reconstruction of Applicants' claimed invention, which is legally impermissible and does not constitute a valid basis for a finding of obviousness. *In re Fritch*, 972 F.2d 1260, 23 USPQ2d 1780 (Fed. Cir. 1992). The rejections, which lack the necessary evidence and rationale, are based on knowledge gleaned only from Appellants' disclosure.

The relied upon references, taken alone or in combination, do not teach or suggest the recited apparatus of claim 1. The Action's assertions are not based on any evidence in the record. *In re Zurko*, 258 F.3d 1379, 59 USPQ2d 1693 (Fed. Cir. 2001). *In re Lee*, 277 F.3d 1338, 61 USPQ2d 1430 (Fed. Cir. 2002). The Office has not established a *prima facie* case of obviousness.

Claims 61, 69, and 70

Note Applicants' remarks in support of the patentability of claim 1. For reasons previously discussed, the relied upon references, taken alone or in combination, also do not teach or suggest the recited features and relationships of independent claims 61, 69, and 70.

The Dependent Claims

Each of the dependent claims depends directly or indirectly from an independent claim. The Applicants have shown the independent claims to be allowable. "If an independent claim is nonobvious under 35 U.S.C. § 103, then any claim depending therefrom is nonobvious" (MPEP 2143.03). *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988). Thus, it is asserted that the dependent claims are allowable on the same basis. Furthermore, each dependent claim additionally recites specific features and relationships that patentably distinguish the claimed invention over the applied art. The references, taken alone or in combination, do not teach or suggest the recited features and relationships. Nor would it have been obvious to have modified Zerman/Oda with the teaching of either Coutts or Heath as alleged to have produced the claimed invention.

Conclusion

Allowance of all of Applicants' pending claims is respectfully requested.

The undersigned will be happy to discuss any aspect of the Application by telephone at the Office's convenience.

Respectfully submitted,



Ralph E. Jocke Reg. No. 31,029
WALKER & JOCKE
231 South Broadway
Medina, Ohio 44256
(330) 721-0000